IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8844 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PREMILABEN RAVJIBHAI PATEL

Versus

INDIAN OIL CORPORATION

Appearance:

MR KS JHAVERI for Petitioner

MR GN SHAH for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 14/09/2000

ORAL JUDGEMENT

Rule. Mr.G.N.Shah waives service of rule for respondent No.1.

2. The Indian Oil Corporation had published an advertisement in newspapers on 31.10.1995 inviting applications for LPG distributorship in Devgadh Baria in Panch Mahals District and other locations. Pursuant to the said advertisement several applications were received by the Indian Oil Corporation including the application from the petitioner. The Applicants were called for interview on 19.3.1996. The Oil Selection Board (OSB) which is now called Dealer Selection Board (DSB) sent a merit panel list to the IOC along with its letter dated 24.3.1996. The IOC however did not issue any letter of intent to any of the applicants and the present petition thereupon came to be filed for directing the IOC to take all necessary steps for issuing letter of intent in favour of candidates selected in the merit panel decided by the OSB(Gujarat). By order dated 18.8.2000 the respondent Board was required to keep ready for perusal of the Court the merit panel decided by the OSB(Gujarat) pursuant to the interviews held on 19.3.96 for the LPG dealership of Devgadh Baria. The merit panel was shown for perusal of the Court on 31.8.2000. It is, therefore, contended that since the petitioner was placed at Sl.No.1 in the merit panel the letter of intent is required to be issued to the petitioner.

3. Affidavit in reply has been filed by Mr. Subodh Kumar, Senior Area Manager, IOC, Ahmedabad on 12.9.2000. The case of the IOC in the said affidavit in reply is that the IOC is not inclined to act upon the said merit panel pursuant to interviews held on 19.3.96 in view of the fact that the Govt.of India, Ministry of Petroleum & Natural Gas has issued letter dated 8.4.96 containing instructions to the effect that in view of the General Elections announced by the Election Commission the Model Code of conduct for political parties as well as for the Government had come into force from 20.3.96. It was further stated in the said letter that the Ministry had learnt that even after expiry of their terms some OSBs had conducted or were conducting interviews for selection of dealers during the election period. It was further stated that any selections made after the expiry of the terms of the OSBs were invalid and it was directed that the OSBs or oil companies would not arrange any interview after expiry of the term of the OSBs and/or issue any sanction letter on the basis of such selection. It was further specifically directed in the said letter that no interviews by the OSB be held till the elections are held and also no advertisements for awarding dealership/distributorship should be issued till then. It was further observed that the Ministry by its letter dated 12.6.96 addressed to all the SLCs with copies

thereof endorsed to all the Oil companies pointed out that the Ministry had in May 1996 advised respondent No.1, interalia, that no letters of intent were to be issued on merit panels received on or after 27.3.1996. It is stated that since the merit panel prepared by the OSB was received on 29.3.96 the IOC was justified in not issuing letter of intent in favour of the petitioner. The respondents have, therefore, contended that in view of the aforesaid instructions dated 8.4.96 and 12.6.96, the IOC has not issued any letter of intent in favour of the petitioner though his name was at Sl.No.1 in the merit panel.

4. The learned counsel for the petitioner has submitted that in the instant case the interviews were held on 19.3.96 and the panel was received by IOC on 29.3.1996 whereas the selections were prohibited by letter dated 8.4.1996 and even the merit list was received by the IOC prior there to. Hence, the letters dated 8.4.96 and 12.6.96 can not be held out against the petitioner.

5. Having heard the learned counsel for the parties it appears to the Court that the issuance of office letter dated 8.4.96 was necessitated because even after expiry of their term some OSBs had conducted or were conducting interviews for selection of dealers during the election period. It is not even the case of the IOC that in the instant case the OSB had held interviews after expiry of its term. In this view of the matter there is no reason why the respondents can justify non-issuance of letter of intent to the petitioner merely on the ground that the merit panel was received by the IOC on 29.3.96, i.e. within 10 days from the date of interviews. In the absence of any justification, non-issuance of letter of intent in favour of the petitioner must be held to be arbitrary and violative of the petitioner's fundamental rights under Articles 14 and 19 of the Constitution. It is required to be noted at this stage that in a similar case this Court has given direction to the IOC by judgment dated 24.7.2000 in Spl.C.A.No.11031 of 1998 to issue letter of intent to the petitioner within a period of 15 days from the date of receipt of writ of this Court. Of course, that decision further stated that if the respondents consider that the petitioner can not be granted LPG distributorship as well as letter of intent, a reasoned order may be passed and a copy of the order may be sent to the petitioner.

6. The learned counsel for the IOC submitted that in a similar matter, the Calcutta High Court has given such

directions and the matter is carried in SLP before the Hon'ble Supreme Court and the same is pending. Since the Court proposes to give some time to the respondents to carry out the directions, there is no reason not to give any directions in the present matter.

7. In view of the above discussion, the petition is allowed. The respondents are directed to issue letter of intent to the petitioner on the basis of merit list prepared by the OSB on the basis of interviews held on 19.3.96 in accordance with the relevant rules and regulations but without relying on the letters dated 8.4.96 and 12.6.99 of the Government of India discussed hereinabove.

This direction shall be complied with within one month from the date of receipt of the writ of this court or a certified copy of this judgment, whichever is earlier. Rule is made absolute accordingly. There shall be no order as to costs.

14.9.2000 (M.S.SHAH,J)